

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLY J COLE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 20A-UI-06042-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/10/20
Claimant: Appellant (1R)

Iowa Code § 96.3(4) – Payment – Benefit Determination, Dependents
Iowa Code § 96.4(4) – Eligibility – 1 ¼ x High Quarter, 8x 2nd Benefit Year
Iowa Code § 96.6(2) – Filing – Timely Appeal
Iowa Admin. Code r. 871-24.35 – Filing

STATEMENT OF THE CASE:

Claimant filed an appeal from the May 14, 2020 monetary determination. Claimant was properly notified of the hearing. A telephone hearing was scheduled for July 13, 2020, at 10:00 a.m. Claimant did not register a telephone number at which he could be reached and, therefore, no hearing was held. Claimant's Exhibit A was admitted. Official notice was taken of the administrative record

ISSUES:

Whether claimant filed a timely appeal.
Whether claimant's monetary determination is correct.
Whether claimant is monetarily eligible to receive benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The monetary record was mailed to claimant at the address of record on May 14, 2020. Claimant appealed the monetary record via mail on May 22, 2020, as evidenced by the post mark.

Claimant filed an initial claim for benefits effective May 10, 2020. The base period for that claim year begins with the first quarter of 2019 and ends with the fourth quarter of 2019. The monetary record reflects no wages earned by claimant in the fourth quarter of 2019. Claimant presented evidence of wages in the gross amount of \$25,011.26 the fourth quarter of 2019 from Trelleborg Sealing Solutions U.S., Inc. (Exhibit A)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's appeal of the monetary record was timely.

Iowa Admin. Code r. 871-24.9(1)b provides:

(1) Monetary determinations.

b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of mailing of the monetary record specifying the grounds of objection to the monetary record.

Iowa Admin. Code r. 871-24.35(1)(a) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark on the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

Claimant appealed the monetary determination within ten days of the date of mailing, as evidenced by the postmark. Claimant's appeal is timely.

For the reasons that follow, the administrative law judge concludes the monetary determination is not correct and claimant is monetarily eligible to receive benefits.

Iowa Code section 96.3(4) provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage.
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this

section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "a", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Iowa Code section 96.4(4)a-b-c provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

(1) Wages that fall within the alternative base period established under this paragraph "b" are not available for qualifying benefits in any subsequent benefit year.

(2) Employers shall be charged in the manner provided in this chapter for benefits paid based upon quarters used in the alternative base period.

c. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least eight times the individual's weekly benefit amount, as a condition to receive benefits in the next benefit year.

Claimant's wages in the fourth quarter of 2019 were not reported at the time the monetary record was issued. The wages for the fourth quarter of 2019 should be added.

DECISION:

The May 14, 2020 monetary determination is affirmed pending a determination on the remanded issue. Claimant is monetarily eligible according to the monetary determination.

REMAND:

The issue of unrecorded wages for the fourth quarter of 2019 is remanded to the tax section of Iowa Workforce Development for addition of wages as outlined above.



Adrienne C. Williamson
Administrative Law Judge
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July 21, 2020
Decision Dated and Mailed

acw/sam